

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

JOSE MERCED, PRESIDENT,
TEMPLO YORUBA OMO
ORISHA TEXAS INC.
Plaintiff

V.

THE CITY OF EULESS
Defendant

§
§
§
§
§
§
§
§
§
§

Civil Action No. 4-O6CV-891—A

PLAINTIFF'S LIST OF FACTS TO BE PROVEN AT TRIAL

TO THE HONORABLE JUDGE OF THE COURT:

Plaintiff files his *Plaintiff's List of Facts To Be Proven At Trial*, pursuant to this Court's Order of 4 February 2008. The facts he must prove under each of his legal theories to make a prima facie case of entitlement to the relief requested are as follows:

I. To prevail on his claim for injunctive relief under 42 USC §1983 and the First Amendment of the United States Constitution, Plaintiff will prove the following:

The Plaintiff is a priest of the Templo Yoruba Omo Orisha Texas Inc.

The Templo Yoruba Omo Orisha Texas Inc. is a religious institution protected by the First Amendment to the United States Constitution.

The religion practiced by the Plaintiff is the religion known as "Santeria."

The practice of the Santeria religion requires the observance of animal sacrifice, including the sacrifice of goats, sheep, and turtles.

The sacrifice of goats, sheep, and turtles is necessary to the observance of certain essential Santeria rituals.

The sacrifice of goats, sheep, and turtles is necessary to the continued existence of the Santeria religion.

The Defendant has enacted ordinances in the City Code that prohibit the killing of

mammals and reptiles by homeowners in the City of Euless.

The Defendant enforces or will enforce against the Plaintiff laws that prohibit the killing of mammals and reptiles by homeowners in the City of Euless.

The Defendant, or its agents or employees, have told the Plaintiff that he may not sacrifice goats, sheep, and turtles (mammals and reptiles) in his home.

The Plaintiff has practiced and intends to practice inside his home the essential rituals of his religion, including the sacrifice of goats, sheep, and turtles.

The Defendant's enforcement against the Plaintiff of laws that prohibit the killing of mammals and reptiles by homeowners in the City of Euless prevents his sacrifice of goats, sheep, and turtles in his home.

By enforcing against the Plaintiff laws that prohibit sacrificing goats, sheep, and turtles in his home, the Defendant has forbidden the Plaintiff's free exercise of his religion.

II. To prevail on his claim for injunctive relief under 42 USC §1983, the First Amendment of the United States Constitution, and the Equal Protection Clause, Section 1, Fourteenth Amendment to the United States Constitution, Plaintiff will prove the following:

Everything required to prove §1983 claim under the First Amendment alone (Paragraph I, above).

The Defendant does not enforce against other homeowners the same laws it enforces or will enforce against the Plaintiff when they kill mammals and reptiles for secular purposes.

or

The Defendant excepts from enforcement against homeowners the prohibition on killing mammals and reptiles for secular purposes that it refuses to except from enforcement against the Plaintiff

or

The Defendant refuses or has refused to except from enforcement against the Plaintiff conduct for religious purposes that is no more prohibited by the language of the law than the conduct of other homeowners for secular purposes which is no less prohibited by the same language of the law, but which the Defendant does except from enforcement.

III. To prevail on his claim for injunctive relief under the Texas Religious Freedom Restoration Act, Texas Civil Practices and Remedies Code, §110, Plaintiff will prove the

following:

The Plaintiff is a priest of the Templo Yoruba Omo Orisha Texas Inc.

The Templo Yoruba Omo Orisha Texas Inc. is a religious institution.

The religion practiced by the Plaintiff is the religion known as "Santeria."

The practice of the Santeria religion requires the observance of animal sacrifice, including the sacrifice of goats, sheep, and turtles.

The sacrifice of goats, sheep, and turtles is necessary to the observance of certain essential Santeria rituals.

The sacrifice of goats, sheep, and turtles is necessary to the continued existence of the Santeria religion.

The Defendant has enacted ordinances in the City Code that prohibit the killing of mammals and reptiles by homeowners in the City of Euless.

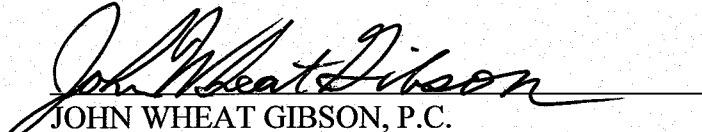
The Defendant enforces or will enforce against the Plaintiff laws that prohibit the killing of mammals and reptiles by homeowners in the City of Euless.

The Plaintiff has practiced and intends to practice inside his home the essential rituals of his religion, including the sacrifice of goats, sheep, and turtles.

The Defendant's enforcement against the Plaintiff of laws that prohibit the killing of mammals and reptiles by homeowners in the City of Euless prevents his sacrifice of goats, sheep, and turtles in his home.

By enforcing against the Plaintiff laws that prohibit sacrificing goats, sheep, and turtles in his home, the Defendant has forbidden the Plaintiff's free exercise of his religion.

Respectfully submitted,

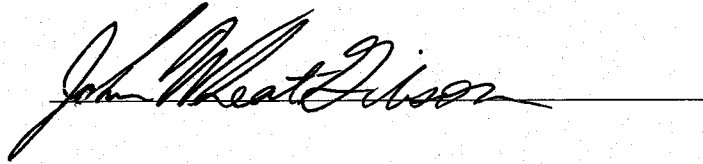


JOHN WHEAT GIBSON, P.C.

By John Wheat Gibson
Texas Bar No. 07868500
701 Commerce, Suite 800
Dallas, Texas 75202
(214) 748-6944, FAX (214) 748-8693
ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I certify that a true copy of the above *Plaintiff's List of Facts to Be Proven at Trial* was served on William M. McKamie, counsel for Defendant, by fax to (210)546-2130 on 12 February 2008 and by first class mail to 13750 San Pedro, Suite 640, San Antonio, TX 78232 on 13 February 2008.

A handwritten signature in black ink, reading "John Wheat Dixon", is written over a horizontal line.